

SUPREME COURT OF ARKANSAS

No. CV-24-453

OSCAR STILLEY

PETITIONER

v.

JOHN THURSTON, IN HIS OFFICIAL
CAPACITY AS ARKANSAS
SECRETARY OF STATE; AND
ARKANSANS FOR LIMITED
GOVERNMENT

RESPONDENTS

Opinion Delivered: September 5, 2024

AN ORIGINAL ACTION

MOTION TO DISMISS GRANTED.

Pet. App. A

PER CURIAM

Oscar Stilley filed this original action under article 5, section 1 of the Arkansas Constitution and Arkansas Code Annotated section 7-9-112 (Supp. 2023). At issue is Arkansas Secretary of State John Thurston's (Secretary's) decision rejecting certification of the Arkansas Abortion Amendment of 2024 to the November ballot. Stilley's complaint contains four counts: (1) the Secretary is obligated to count all signatures submitted by Arkansans for Limited Government (AFLG) in support of the abortion amendment and determine whether a cure period is required; (2) Act 236 of 2023 is unconstitutional, and the Secretary should be enjoined from enforcing it; (3) Act 1413 of 2013 is unconstitutional, and the Secretary should be enjoined from enforcing it; and (4) AFLG complied with the provisions of Act 1413 of 2013.

In response, the State moved to dismiss on the basis of Stilley's lack of standing to bring this action because he was not lawfully registered to vote and jurisdiction. We agree and dismiss the petition.¹

I. Background

Following the Secretary's rejection of the initiated ballot petition on the amendment, Stilley filed his original action with this court on July 16, 2024, challenging the Secretary's decision. He asserted that the Secretary failed to count all signatures submitted by AFLG, that certain acts of the General Assembly relating to the initiative and referendum process are unconstitutional and, alternatively, that AFLG complied with Arkansas law when submitting its petition. The State moved to dismiss Stilley's petition, asserting that this court lacked jurisdiction over the matter and that Stilley was not entitled to relief on the merits. In addition, the State alleged that Stilley lacked standing to bring this action because he was not lawfully registered to vote.

Because the State's allegation required findings of fact, we appointed the Honorable Gary Arnold as special master to conduct a hearing and make findings of fact regarding the validity of Stilley's voter registration. On August 26, 2024, we received the special master's report. The special master found that in 2009, Stilley was found guilty of one count of conspiracy to defraud the United States and two counts of tax evasion, each count a felony offense. Stilley was sentenced to 180 months' imprisonment and, upon release, a term of three years' supervision. In 2022, Stilley was found to be in violation of the conditions of

¹Stilley moved to dismiss respondent AFLG as a party to this action. Our decision today renders that motion moot.

his supervised release and committed for a term of three months' imprisonment and a term of thirty-three months' supervision. The term of supervised release commenced August 10, 2022. The special master found that, at all times since April 23, 2010, Stilley has either been imprisoned or subject to supervised release, has not been pardoned, and currently remains on supervised release. On his July 2024 Arkansas Voter Registration Application, Stilley attested that he had never been convicted of a felony without the sentence being discharged or pardoned.² The Crawford County Clerk accepted the application, and a voter registration card was prepared for Stilley. The special master found that Stilley's appeals have been denied and that all judgments are final.

Under our standard of review, we will accept the special master's findings of fact unless they are clearly erroneous. *Roberts v. Priest*, 334 Ark. 503, 975 S.W.2d 850 (1998). A finding of fact is clearly erroneous, even if there is evidence to support it, when, based on the entire evidence, the court is left with the definite and firm conviction that the special master has made a mistake. *Id.* Finding no error in the special master's report, we hereby adopt his findings of fact.³

II. *Counts I and IV*

We have jurisdiction over Counts I and IV as they relate to the Secretary's actions and decisions in his sufficiency determination of the initiated ballot petitions. *See Ark. Const. art. 5, § 1.* Because Counts I and IV pertain to the Secretary's sufficiency

²Stilley wrote the following statement on his application: "I have not been lawfully convicted of a felony by a lawful court."

³Stilley filed an objection to the special master's report; however, we are unpersuaded by his assertions therein.

determination, we address them together. Under Arkansas law, either the sponsor of the statewide initiative petition or a registered voter may challenge the Secretary's decision finding a petition insufficient. Ark. Code Ann. § 7-9-112(a). In his petition, Stilley claimed standing to bring this action as a registered voter. However, as the special master found, Stilley was convicted of a felony in 2009, which should have resulted in the cancellation of his voter registration. *See* Ark. Const. amend. 51, § 11(a)(4) (requiring permanent registrar of the county to cancel the voter registration of a convicted felon). And because Stilley has not completed his term of supervised release, he remains ineligible to register to vote. *See* Ark. Const. amend. 51, § 11(d) (requiring that a convicted felon be discharged from probation or parole and that he satisfy all terms of imprisonment before becoming eligible to vote). We therefore find that Stilley was ineligible to vote and that he was dishonest on his Arkansas Voter Registration Application when he attested that he had never been convicted of a felony. As Stilley is not a lawfully registered voter, he lacks standing under section 7-9-112 to challenge the Secretary's sufficiency determination. We dismiss Counts I and IV.

III. *Counts II and III*

We address Counts II and III together as they are both constitutional challenges to acts of the General Assembly. Article 5, section 1 of the Arkansas Constitution provides this court with original jurisdiction over initiative petitions, whereas circuit courts were established under Amendment 80 as "trial courts of original jurisdiction of all justiciable matters not otherwise assigned pursuant to this Constitution." Ark. Const. amend. 80, § 6(A). In his petition, Stilley asks this court to declare Act 236 of 2023 and Act 1413 of 2013

unconstitutional and enjoin its further application. However, in *Reynolds v. Thurston*, we noted that actions for declaratory judgment originate in the circuit court, including challenges similar to the ones Stilley now asserts. 2024 Ark. 97, at 10–12, 689 S.W.3d 48, 53–55. Accordingly, Counts II and III fall outside our original jurisdiction, and we dismiss.

IV. *Conclusion*

In conclusion, we grant the State’s motion to dismiss. Counts I and IV are dismissed because Stilley lacked standing to file this petition. Counts II and III are dismissed because we lack original jurisdiction to declare Act 236 of 2023 and Act 1413 of 2013 unconstitutional. Additionally, we refer the special master’s report to the Crawford County Clerk and the prosecuting attorney for the Twenty-First Judicial District.

Motion to dismiss granted.

Mandate to issue immediately.

BAKER, J., not participating.

FORMAL ORDER

STATE OF ARKANSAS,
SUPREME COURT

Pet. App. B

BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT
BEGUN AND HELD IN THE CITY OF LITTLE ROCK, ON OCTOBER 24, 2024,
AMONGST OTHERS WERE THE FOLLOWING PROCEEDINGS, TO-WIT:

SUPREME COURT CASE NO. CV-24-453

OSCAR STILLEY

PETITIONER

V. AN ORIGINAL ACTION

JOHN THURSTON, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE;
AND ARKANSANS FOR LIMITED GOVERNMENT RESPONDENTS

PETITIONER'S MOTION TO RECALL THE MANDATE IS DENIED.
PETITIONER'S MOTION FOR SHOW CAUSE ORDER IS MOOT. WOMACK, AND
WEBB, JJ., WOULD DENY.

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF
THE ORDER OF SAID SUPREME COURT, RENDERED IN
THE CASE HEREIN STATED, I, KYLE E. BURTON,
CLERK OF SAID SUPREME COURT, HEREBUNTO
SET MY HAND AND AFFIX THE SEAL OF SAID
SUPREME COURT, AT MY OFFICE IN THE CITY OF
LITTLE ROCK, THIS 24TH DAY OF OCTOBER, 2024.

CLERK

CC: OSCAR STILLEY
STEVEN SHULTS, AMANDA ORCUTT AND PETER SCHULTS
NICHOLAS J. BRONNI, SOLICITOR GENERAL
DYLAN L. JACOBS, DEPUTY SOLICITOR GENERAL
ASHER STEINBERG, SENIOR ASSISTANT SOLICITOR GENERAL

FORMAL ORDER

STATE OF ARKANSAS,
SUPREME COURT

Pet. App. C

**BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT
BEGUN AND HELD, ON JULY 26, 2024, WAS THE FOLLOWING PROCEEDING, TO-
WIT:**

SUPREME COURT CASE NO. CV-24-453

OSCAR STILLEY

PETITIONER

V. AN ORIGINAL ACTION

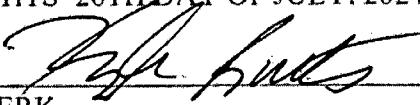
JOHN THURSTON, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE;
AND ARKANSANS FOR LIMITED GOVERNMENT RESPONDENTS

PETITIONER'S PETITION ON ORIGINAL ACTION TO COMPEL THE
SECRETARY OF STATE TO COUNT AND CERTIFY THE NUMBER OF LEGAL
SIGNATURES ON THE ARKANSAS ABORTION AMENDMENT OF 2024, TO DECLARE
ACT 236 OF 2023 UNCONSTITUTIONAL, AND TO DECLARE ACT 1413 OF 2013
UNCONSTITUTIONAL WHETHER IN WHOLE OR IN PART, ETC.

ANSWER OF SEPARATE RESPONDENT, JOHN THURSTON, IN HIS OFFICIAL CAPACITY AS ARKANSAS SECRETARY OF STATE, TO PETITION ON ORIGINAL ACTION DUE BY WEDNESDAY, JULY 31, 2024.

GARY ARNOLD APPOINTED AS SPECIAL MASTER TO CONDUCT A HEARING AND MAKE FINDINGS OF FACT REGARDING THE VALIDITY OF OSCAR STILLEY'S VOTER REGISTRATION. SPECIAL MASTER IS ORDERED TO REPORT HIS FINDINGS TO THIS COURT BY AUGUST 26, 2024. PETITIONER'S MOTION FOR VOLUNTARY DISMISSAL OF ARKANSANS FOR LIMITED GOVERNMENT AND MOTION OF SEPARATE RESPONDENT, JOHN THURSTON, IN HIS OFFICIAL CAPACITY AS ARKANSAS SECRETARY OF STATE, TO DISMISS, ARE TAKEN WITH THE CASE. WOOD AND HILAND, JJ., WOULD NOT APPOINT A SPECIAL MASTER.

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF
THE ORDER OF SAID SUPREME COURT, RENDERED IN
THE CASE HEREIN STATED, I, KYLE E. BURTON,
CLERK OF SAID SUPREME COURT, HEREUNTO
SET MY HAND AND AFFIX THE SEAL OF SAID
SUPREME COURT, AT MY OFFICE IN THE CITY OF
LITTLE ROCK, THIS 26TH DAY OF JULY, 2024.


CLERK

CC: OSCAR STILLEY
STEVEN SHULTS, AMANDA ORCUTT AND PETER SCHULTS
NICHOLAS J. BRONNI, SOLICITOR GENERAL
DYLAN L. JACOBS, DEPUTY SOLICITOR GENERAL
ASHER STEINBERG, SENIOR ASSISTANT SOLICITOR GENERAL
GARY ARNOLD, SPECIAL MASTER

FORMAL ORDER

STATE OF ARKANSAS,)

SUPREME COURT)

Pet. App. D

BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT
BEGUN AND HELD, ON AUGUST 9, 2024, WAS THE FOLLOWING PROCEEDING,
TO-WIT:

SUPREME COURT CASE NO. CV-24-453

OSCAR STILLEY

PETITIONER

V. AN ORIGINAL ACTION

JOHN THURSTON, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE;
AND ARKANSANS FOR LIMITED GOVERNMENT

RESPONDENTS

PETITIONER'S PETITION ON ORIGINAL ACTION TO COMPEL THE
SECRETARY OF STATE TO COUNT AND CERTIFY THE NUMBER OF LEGAL
SIGNATURES ON THE ARKANSAS ABORTION AMENDMENT OF 2024, TO DECLARE
ACT 236 OF 2023 UNCONSTITUTIONAL, AND TO DECLARE ACT 1413 OF 2013
UNCONSTITUTIONAL WHETHER IN WHOLE OR IN PART, ETC.

PETITIONER IS DIRECTED TO FILE A BOND APPROVED BY THE CLERK
OF THE COURT IN THE AMOUNT OF \$5,000. BOND DUE WITHIN SEVEN DAYS
(AUGUST 16, 2024).



IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF
THE ORDER OF SAID SUPREME COURT, RENDERED IN
THE CASE HEREIN STATED, I, KYLE E. BURTON,
CLERK OF SAID SUPREME COURT, HEREUNTO
SET MY HAND AND AFFIX THE SEAL OF SAID
SUPREME COURT, AT MY OFFICE IN THE CITY OF
LITTLE ROCK, THIS 9TH DAY OF AUGUST, 2024.

Kyle Burton
CLERK

CC: OSCAR STILLEY
STEVEN SHULTS, AMANDA ORCUTT AND PETER SCHULTS
NICHOLAS J. BRONNI, SOLICITOR GENERAL
DYLAN L. JACOBS, DEPUTY SOLICITOR GENERAL
ASHER STEINBERG, SENIOR ASSISTANT SOLICITOR GENERAL
GARY ARNOLD, SPECIAL MASTER

FORMAL ORDER

STATE OF ARKANSAS,)
)
SUPREME COURT)

Pet. App. E

**BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT
BEGUN AND HELD, ON AUGUST 22, 2024, WAS THE FOLLOWING PROCEEDING,
TO-WIT:**

SUPREME COURT CASE NO. CV-24-453

OSCAR STILLEY

PETITIONER

V. AN ORIGINAL ACTION

JOHN THURSTON, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE;
AND ARKANSANS FOR LIMITED GOVERNMENT RESPONDENTS

PETITIONER'S EMERGENCY MOTION TO COMPEL THE SECRETARY OF STATE TO INCLUDE THE POPULAR NAME AND BALLOT TITLE ON THE BALLOT. MOTION DISMISSED AS MOOT.

KEMP, C.J., WOULD GRANT PURSUANT TO *COWLES V. THURSTON*, 2024 ARK. 121, 12-14 (KEMP, C.J., DISSENTING). BAKER AND HUDSON, JJ. WOULD GRANT PURSUANT TO *COWLES V. THURSTON*, 2024 ARK. 121, 14-19 (BAKER, J., DISSENTING).

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF
THE ORDER OF SAID SUPREME COURT, RENDERED IN
THE CASE HEREIN STATED, I, KYLE E. BURTON,
CLERK OF SAID SUPREME COURT, HEREUNTO
SET MY HAND AND AFFIX THE SEAL OF SAID
SUPREME COURT, AT MY OFFICE IN THE CITY OF
LITTLE ROCK, THIS 22ND DAY OF AUGUST, 2024.

Kyle E. Burton
CLERK

CC: OSCAR STILLEY
STEVEN SHULTS, AMANDA ORCUTT AND PETER SCHULTS
NICHOLAS J. BRONNI, SOLICITOR GENERAL
DYLAN L. JACOBS, DEPUTY SOLICITOR GENERAL
ASHER STEINBERG, SENIOR ASSISTANT SOLICITOR GENERAL

IN THE ARKANSAS SUPREME COURT
AN ORIGINAL ACTION

Supreme Court Case No. CV-24-453

Oscar Stilley

Petitioner

v

John Thurston, In His Official Capacity
As Secretary of State; and Arkansans
For Limited Government

Pet. App. F

Respondents

Special Master's Report and Findings of Fact

By FORMAL ORDER on July 26, 2024, the Arkansas Supreme Court appointed Gary Arnold as Special Master to conduct a hearing and make findings of fact regarding the validity of Oscar Stilley's voter registration and to report his findings by August 26, 2024.

The hearing was conducted in the Justice Building on August 13, 2024, at 9:30 a.m. Petitioner, Oscar Stilley, appeared self-represented. Respondent, John Thurston, in his official capacity as Secretary of State (Thurston), appeared by his attorneys Justin Brasher, Christine Cryer, and Nicholas Bronni. Respondent, Arkansans for Limited Government appeared by its attorney, Amanda Orcutt.

At the hearing, no witnesses were called, seven exhibits were offered by Respondent Thurston and received as evidence, Stilley and attorneys for Respondent Thurston referred to the pleadings and exhibits and made arguments in support of their positions. Respondent Arkansans for Limited Government, rested without offering evidence or argument.

The exhibits received into evidence were:

Ex.1 Certified copy of Arkansas Voter Registration Application - Oscar A. Stilley

Ex. 2 Certified copy of Registrant Information Card and Registrant Receipt -
Oscar Amos Stilley

Ex.3 Certified copy of Individual Voting Report - Oscar Amos Stilley

Ex. 4 Certified copy of Activity Report, Crawford County - Oscar Amos Stilley

Ex. 5 Certified copy of Judgment In a Criminal Case, United States District Court, Northern District of Oklahoma, United States of America v. Oscar Amos Stilley, case number 09-CR-043-002-SPF, dated April 23, 2010

Ex. 6 Certified copy of Judgment In a Criminal Case (For Revocation of Probation or Supervised Release), United States of American v. Oscar Amos Stilley, Case Number 09-CR-042-002-SPF, dated November 27, 2022.

Ex.7 Certified copy of an ORDER in United States District Court, Northern District of Oklahoma, United States of America v. Oscar Amos Stilley, Case No. 09-CR-0043-2-SPF

From the hearing on August 13, 2024, the Special Master makes the following Findings of Fact regarding the validity of Oscar Stilley's voter registration:

1. Following a 14-day jury trial in the United States District Court for the Northern District of Oklahoma, in October and November, 2009, Stilley was found guilty of one count of conspiracy to defraud the United States and two counts of tax evasion, each count a felony offense. (Ex. 5)
2. On April 23, 2010, sentence was imposed on Stilley committing him to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 180 months, 60 months as to each offense, such terms to run consecutively, and upon release from imprisonment for a term of supervised release of three years. (Ex. 5)
3. On November 21, 2022, the U.S. District Court for the Northern District of Oklahoma found Stilley in violation of two special conditions of his supervised release. He was committed to the custody of the U.S. Bureau of Prisons for a term of three months and upon release from custody on supervised release for a term of thirty-three months. That term of supervised release commenced August 10, 2022. (Ex. 6)
4. At all times since April 23, 2010, Stilley has either been imprisoned or subject to supervised release as a result of his felony convictions and revocation of supervised release. He has not discharged his sentence, has not been pardoned, and currently continues on supervised release. (Ex. 6 and Ex. 7)
5. On July 12, 2024, in his Arkansas Voter Registration Application, Stilley responded to the question, "Have you ever been convicted of a felony without your sentence having been discharged or pardoned?" by checking the "No" box. He then hand-printed the statement, "I have not been lawfully convicted of a felony by a lawful court." (Ex. 1). The Application was accepted by the Crawford County Clerk, and a Registrant Information Card and Registrant Receipt were prepared. (Ex. 2)
6. In his briefings and oral argument, Stilley vigorously contends the Judgment and Commitment Orders (Ex. 5 and Ex. 6) are void as having been obtained unlawfully through, among other things, fraud, perjury, and violation of his 6th Amendment right to assistance of counsel.
7. Stilley's appeals, based upon his briefings, have been denied. The judgments (Ex. 5

and Ex. 6) are final.

Respectfully submitted to the Arkansas Supreme Court on this 23 day of August 2024.

Gary Arnold
Gary Arnold
Special Master